रजिस्ट्री सं० डी० 221 REGISTERED No. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 46ए०] नई दिल्ली, सोमवार, नवम्बर 9, 1970/कार्तिक 18, 1892
No. 46A] NEW DELHI, MONDAY, NOVEMBER 9, 1970/KARTIKA 18, 1892

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following report of the Joint Committee on the Bill to amend the Commissions of Inquiry Act, 1952 was presented to Lok Sabha on the 9th November, 1970:—

COMPOSITION OF THE COMMITTEE

Shri N. K. P. Salve—*Chairman.*

MEMBERS

Lok Sabha

2. Shri N. C. Chatterjee
*3. Shrimati Indira Gandhi
4. H. H. Maharaja Pratap Keshari Deo
5. Shri C. T. Dhandapani
6. Shri Surendranath Dwivedy
7. Shri Hem Raj
8. Shri V. N. Jadhav
9. Shri Bhogendra Jha
10. Shri N. Sreekantan Nair
11. Shrimati Sucheta Kripalani
12. Shri D. K. Kunte
13. Shri Bal Raj Madhok
14. Shri Dhuleshwar Meena
15. Shri P. Ramamurti
16. Shri S. S. Syed

17. Shri Gajaraj Singh Rao
18. Shri Bhola Raut
19. Shri Rabi Ray
20. Shri R. Dasaratha Rama Reddy
*21. Shri Sunder Lal
22. Dr. Sisir Kumar Saha
23. Shri Shantilal Shah
24. Shri Viren Shah
25. Shri Biswanarayan Shastri
26. Shri S. M. Siddayya
27. Shri Sant Bux Singh
28. Shri S. Supakar
29. Shri P. R. Thakur
*30. Shri Krishna Chandra Pant

Rajya Sabha

†31. Shri Phool Singh
32. Shri Gulam Nabi Untoo
33. Shri N. P. Chaudhuri
34. Shri T. G. Deshmukh
35. Shri Kota Punnaiah
††36. Shri Ram Niwas Mirdha
37. Shri M. L. Kollur
38. Kumari Shanta Vasisht
39. Shri B. T. Kemparaj
40. Shri Chandramouli Jagarlamudi
41. Shri Rudra Narain Jha
42. Shri K. P. Subramania Menon
43. Shri Balachandra Menon
44. Shri J. S. Tilak
45. Shri Pranab Kumar Mukherjee.

LEGISLATIVE COUNSEL

Shri S. Harihara Iyer—*Addl. Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri J. M. Lalvani, *Joint Secretary.*
2. Shri B. Shukla, *Deputy Secretary.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

*Appointed on the 1st September, 1970 *vice* Sarvashri Y.B. Chavan, Bishwanath Roy and Vidya Charan Shukla resigned.

†Died on the 27th September, 1970.

††Appointed on the 21st August 1970. *vice* Shri Sheel Bhadra Yajee resigned.

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill* to amend the Commissions of Inquiry Act, 1952 was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 21st November, 1969. The motion for reference of the Bill to a Joint Committee was moved in Lok Sabha by Shri Vidya Charan Shukla, the then Minister of State in the Ministry of Home Affairs on the 24th December, 1969. The motion was discussed and adopted on the same day.

3. Rajya Sabha discussed the said motion on the 1st April, 1970 and concurred in the motion on the 2nd April, 1970.

4. The message from Rajya Sabha was read out to the Lok Sabha on the 6th April, 1970.

5. The Committee held eleven sittings in all.

6. The first sitting of the Committee was held on the 1st May, 1970 to draw up a programme of work. The Committee, at this sitting, decided to issue a Press Communique inviting memoranda on the provisions of the Bill from the State|Union Territory Governments, public bodies, Chambers of Commerce and Industry, Organisations, Associations, Trade Unions, Bar Councils, Supreme Court|High Court Bar Associations and individuals by the 30th June, 1970.

7. Twenty-four Memoranda|representations on the Bill were received by the Committee from different bodies individuals etc.

8. At their sittings held on the 20th August, 1st September, 28th September and 29th September, 1970 respectively, the Committee heard the evidence given by individuals. At their sitting held on the 21st October, 1970 in the Legislative Assembly Building, Srinagar, the Committee also heard the evidence given by the representatives of the Government of Jammu and Kashmir.

9. The Committee have decided that the evidence given before them should be printed and laid on the Table of both the Houses.

10. The report of the Committee was to be presented in the first week of the Eleventh Session of the Lok Sabha. As this could not be done, the Committee requested for extension of time up to the first day of the Twelfth Session which was granted by the House on the 27th July, 1970.

11. The Committee considered the Bill clause by clause at their 9th and 10th sittings held on the 22nd and 23rd October, 1970 respectively, in the Legislative Assembly Building, Srinagar.

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 21st November, 1969.

12. The Committee considered and adopted their Report on the 8th November, 1970.

13. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

14. *Clause* 2.—The Committee feel that once a Commission of Inquiry is appointed to inquire into any matter of public importance, it should not be left to the executive Government to discontinue the Commission before it has completed its task assigned to it at the time of its constitution and that the Commission must complete its inquiry and submit its report to the appropriate Government.

The Committee also feel that the power sought to be conferred on the appropriate Government to increase the number of members of the Commission at any stage of an inquiry is likely to be misunderstood by the public and likely to be misused by the Government and accordingly they are of the opinion that such a power should not be conferred on the appropriate Government.

During the course of evidence given before the Committee, it was brought to their notice that many a time reports of Commissions of Inquiry on important issues of national interest could not see the light of the day even though considerable money from public funds had been spent thereon. The Committee, therefore, consider it necessary that a specific provision should be made in the principal Act requiring the appropriate Government to cause the report of the Commission to be laid before the House of the People or the Legislative Assembly, as the case may be, together with a memorandum of action taken thereon, within a period of six months from the date of the submission of the report. The clause, has, accordingly, been amended to achieve the above objectives.

While considering the Bill, the Committee considered various amendments given notice of by the members to the effect that once a Commission of Inquiry is appointed, it must complete its inquiry and submit its report and it should not be within the powers of the Government to discontinue the Commission before it has completed its inquiry and submitted its report. The Committee felt that the amendment, to take away the powers of the Government to discontinue the Commission before it has completed its inquiry and submitted its report, if accepted, would be in conflict with section 7 of the principal Act and it would be beyond the scope of the Bill under their consideration. The Committee, therefore, recommend to Government that necessary steps should be taken to divest the Government of powers to discontinue the Commission before it has submitted its report. The Committee feel that such an amendment is very essential particularly in view of the fact that at present even a Commission constituted by a resolution of the House of the People or the Legislative Assembly could be discontinued by the Government under section 7 of the principal Act.

15. *Clause* 3.—The amendment made in this clause is consequential to the amendment made in clause 11 whereby the application of the principal Act has been extended to the State of Jammu and Kashmir as well.

16. *Clause* 4.—The Clause, as it is worded, covers only those persons who fail to furnish the information called for by the Commission. It does not provide for those cases where a person gives false information to the Commission. The Committee, therefore, feel that a reference to section 177 of the Indian Penal Code should also be made in the clause so as to cover such cases. The clause has been amended accordingly.

17. *Clause* 5.—The Committee feel that a Commission appointed by the Central Government should have the power to utilise the services of any officer or investigation agency of the State Government and *vice versa* and that the officer or agency whose services are utilised should be enabled to summon and examine persons, require the discovery and production of documents and requisition public records. The Committee also feel that no statement made by a person before any officer or investigation agency whose services are utilised by the Commission shall subject him to, or be used against him in, any civil or criminal proceeding and that the provisions of section 6 of the principal Act should be made applicable to such statements also. The clause has been amended to achieve the above objective.

18. *Clause* 6.—The clause which seeks to insert a new section 6A in the principal Act provides, in the interests of trade, that nothing in the Act would render it compulsory for any person giving evidence before the Commission to disclose any secret process of manufacture of any goods. The Committee, however, feel that the protection under this clause should not be available in cases where a Commission is expressly required to inquire into the process of manufacture of any goods. The clause has been amended accordingly.

19. *Clause* 8.—Sub-section (1) of the new section 8A, proposed to be inserted in the principal Act by this clause, provides for the uninterrupted functioning of the Commission. However, the proviso to that sub-section provides that, if the appropriate Government notifies the Commission that the services of the Chairman have ceased to be available, the Commission shall not act until a new Chairman is appointed. The Committee feel that this proviso will dilute the object sought to be achieved by sub-section (1) of section 8A. Accordingly, the proviso has been omitted.

The Committee also feel that the Commission should give to every person, likely to be prejudicially affected by the inquiry, a reasonable opportunity of being heard, and that the appropriate Government and the persons who are likely to be prejudicially affected by the inquiry should have the right to cross-examine witnesses and to be represented before the Commission by a legal practitioner or, with the consent of the Commission, by any other person. The Committee are aware that provision for these purposes is already contained in rules 4 and 5 of the Central Commissions of Inquiry (Procedure) Rules, 1960. However, the Committee are of the opinion that suitable provisions for these purposes should be included in the principal Act. The new sections 8B and 8C, proposed to be inserted in the principal Act by this clause, provide for these matters.

20. *Clause* 9.—The Committee feel that the penalty prescribed for acts calculated to bring the Commission or any member thereof into

disrepute is excessive. The Committee are of the opinion that the penalty of imprisonment should be reduced from two years to six months simple imprisonment. The clause has been amended accordingly.

The Committee considered the amendments given notice of by the members to the effect that a Commission of Inquiry be treated as a court subordinate to the High Court and were of the opinion that the Commission must be afforded protection against malicious allegations. They, therefore, recommend that for this purpose Government should take suitable steps either to amend the principal Act or the Contempt of Courts Act, 1952.

21. *Clause* 11.—In view of the preponderance of evidence given before the Committee favouring the extension of the principal Act to the State of Jammu and Kashmir, and the view expressed by the representatives of the State Government, the Committee are of the opinion that it would be in the interest of the nation in general and in the interest of the State of Jammu and Kashmir in particular, that the provisions of the principal Act are extended to that State so far as they relate to inquiries pertaining to matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule of the Constitution as applicable to that State. The clause has been amended to provide for the same.

The Committee also feel that necessary amendments to the principal Act consequent on the extension of the principal Act to the State of Jammu and Kashmir, namely, amendments to sections 1 and 2 of the principal Act and the insertion of a new section in the principal Act providing for the construction of laws not in force in the State of Jammu and Kashmir, may also be made in this clause. The clause has been amended making provision for the aforesaid consequential amendments also.

22. *Clause* 1. *and Enacting Formula.*—The amendments made in clause 1 and in the enacting formula are of formal nature.

23. The other amendments made are of consequential or of drafting nature.

24. The Committee recommend that the Bill, as amended, be passed.

NEW DELHI;
November 8, 1970.
Kartika 17 1892 (*Saka*).

N. K. P. SALVE,
Chairman, Joint Committee.

MINUTES OF DISSENT

I

It was a very difficult task before the Joint Committee to do justice to the purpose of the amending bill. But the Joint Committee as a whole did a commendable job as far as it was possible within the limitation and I think it has been able to improve the Bill to a great extent and I entirely agree with its recommendations which are almost unanimous.

But I must record here my unhappiness at the casual manner of approach of the Government. The Commission of Inquiry is increasingly assuming great importance in our administration and in recent years because of the unstable political situation, special care has to be taken to see that the sanctity and impartiality of the institution is maintained and the Commission is able to discharge its function without any interference from the Executive. I am afraid while drafting the amending Bill no such consideration was given, although this act of 1952 is propose to be amended in the year 1970. Even all the recommendations of the Law Commission in this regard were not accepted.

I fail to understand how it did not occur to the Government before bringing the bill to the House to get the concurrence of the J & K Government for extending the Act and the bill to that State. The Joint Committee can take some credit that it took initiative on this matter and it is really a good augury that the State Government of J & K readily agreed and now the bill will be extended to the whole of India including whole of Nagaland and J & K State. By deleting the proposed clause for increasing the number of members of a commission once it has started functioning and also by introducing a proposal that a commission once appointed must complete and submit its report, it will be difficult for the Executive now to interfere or discontinue the work of the Commission. To make this recommendation perfect, the Government should take no time to suitably modify section 7 of the principal Act, so that no difficulties may be encountered to implement this salient recommendation. There still remains some other lacuna in the Central and as well as in the same of the prevailing State Acts which need to be looked into.

S. N. DWIVEDY.

NEW DELHI;
The 8th November, 1970

II

The history of the reference to Joint Committee of this Bill, considering its due importance, with the background of Law Commission Report pointing out defeciencies, lacuna etc. was the basis for full and thorough consideration by this Committee. The main defects or short-comings in the previous enactment (of 1952) were mainly (i) Delay in the working and submitting report to appropriate Government or Legislature appointing the same and implication of the same,

(2) want of legal processes to obtain information essential for the fact finding work of commission; (3) want of Co-ordination between States and Centre for assistance in the works of respective commissions appointed by them.

The Chief aim is to remove doubts and allay the perturbed public feelings on certain matters of public importance and inspire public confidence. This is a patent fact that even suggestions and valuable findings of the Law Commission in many aspects did not find place in the Bill.

Of course it need not be emphasised that person or persons appointed on the Commissions, should be of high calibre, endowed with special knowledge on the subject of commission and of reputed integrity. Considering these points and valuable documentary and oral evidence before the Committee, I humbly dissent on and about the following matters:

I. Of course from Section 2 of the Main Act, the objectionable and legally untenable words 'Except the State of Jammu and Kashmir have been recommended for omission, but the substitute language and drafting in clause 11 is not legally and factually proper. Briefly this language of drafting reflects a suggestion, as if, India (Bharat), Jammu and Kashmir and District of Kohima etc. are different countries and provisions of this enactment are covenants and agreements.

The basic principle of law is well established that there are no exceptions to Universal Law, but to General Law there are and can be exceptions, conditions and modifications. This enactment falls in the category of General Law and with respect to State of Jammu and Kashmir, the application was conditional by action under Article 370 of the Constitution and with respect to Kohima etc. the special powers of Governor.

Even on factual data the President's order under Article 370, (C.O. of 1954) become operative in 1954 and several other amending orders have been passed upto 17.12.1969. This is about List I Schedule 7—Entry 94 in particular and similarly about List III of concurrent jurisdiction Entry 45.

So the act has been in application since 1954. of course with certain exceptions etc. and so the language operation from the date of commencement of this act (i.e. amending act) is not legally proper.

Even as to matters in List II Supreme Court Ruling A.I.R. 1958 S.C. 538 is of significance which lays down that 'Scope of Inquiry is not limited to particular or specific matters enumerated in list (94), but extends to enquire into collateral matters'.

Again cases A I.R. 1967 J.K. 37(42) about all India servicemen—enquiry against them legal. Even about applications of List

II. Shri Mirdha Home Minister in a statement before Committee assured that President would be approached for and requested for application of this whole Act under art. 370, but this finds no place in the report. I would only cite two specific matters to elaborate this point, what difficulties are likely to arise:—

(i) Government of Jammu and Kashmir if it appoints commission—the services and help of Central Government services and agencies would not be available; (List II specially)

(ii) In the principal act s. 3(b). Central Government to take up matter (i.e. appointing of Commission) if scope of Inquiry extends to two or more States—Supposing there is some important matter for Inquiry by Commission in which State of Jammu and Kashmir is also interested and involved with other States and some or whole matter be in list II how would this provision of law would operate. Is not Jammu and Kashmir a State of India. At top of voice it is said that Jammu and Kashmir is integral Part of India. In such a contingency the Sec. 3(b) provisions would become inoperative and Government of India barred from acting. What a funny position?

II. Non-recommendation of appointment of Government solicitor (Recommended by Law Commission—High Court, Bombay opinion—Shri Palkhiwala's evidence and other weighty evidence on Record).

III. Non-recommendation in the Report for appointment of assessor in proper cases on recommendation and request of Commission—There should be statutory provision and not second rate provision in Rules.

IV. As a consequential amendment and Committee's report emphetic, the Section 7 of the principle act should be omitted.

V. In principal act Sec. 4—the addition of these at the end words is necessary legally 'so far as summoning of witness' Not withstanding anything contained in order XVI Rule 19 of C.P.C.

VI. Clause 6A is likely be abused and provision should be made by adding following, at the end of clause 'Except where the Commission deems it necessary, essential and legally admissible and relevant, such objection should not be allowed'.

VII. The report about provision for contempt is dubious and matter may take long for this act to come into operation. Contempt of Court Act amendment is no remedy and neither legally feasible and tenable. Addition of the following as 10(b) would serve the purpose.

"Commission of Inquiry shall be deemed to be court for purposes of Ch. XXXV of Code of Cr. P. Code and proceedings before it for the limited purpose of Sec. 228 and 480 of the act be

deemed judicial. (1958 S.C. 538—Note—held commission non-judicial). The Commission members be exempted from appearing in Court and the seat shall be seat of commission for purposes of appeal by the offender, if any." This is absolutely essential.

VIII. In Section 12 of the principal act there should be positive provision for the followning matters for Rule making, to have the enactment effective as envisaged by Law Commission i.e. provision for (a) Rules for provision of filling of vacancies caused by death, resignation, non attendence for specified period; (b) Extension of time by appropriate Government and notice of same to Legsilature concerned; (c) for treating the report as an award, if there are definite parties and unanimously from start agree in writing that the commission's report would be acceptable as an award and any objection after report only on basis of Civil Procedure Code; (d) provision for completing the composition of Commission before they enter upon finalising the report and necessary rules for its implementation etc. Documentary and other material on record support my views —I have already submitted a memorandum and these points are there. Since according to my humble opinion the ommissions reports or amended Bill are likely to have far reaching effect, difficulties to carry out the purpose of enactment in full as envisaged and therefore this Minute of dissent, I am submitting.

NEW DELHI; GAJRAJ SINGH RAO.
The 8th November, 1970.

III

Though the Commissions of Inquiry (Amendment) Bill, 1969 has emerged with lots of improvements, it will defeat the very purpose for which a Commission is constituted to enquire into unless the finding of the Commission is taken as award and is binding on the Government to take action on it. Our past experience is that findings of important Commissions are treated with scant respect and some are kept in cold storage till to-day. In such a state of affairs, in future no self-respecting judge or public man of stature will ever accept the responsibility of taking up enquiry under the Commissions of Inquiry Act and people have started losing confidence in such Commissions. So it is high time that the finding under the Commissions of Inquiry Act should be treated as an award.

NEW DELHI; PRATAP KESHARI DEO

The 9th November, 1970.

IV

I fully agree with all the amendments proposed by the Joint Committee. I take this opportunity to congratulate the other members of the Committee for the excellent work they did on this piece of difficult legislation under the able guidance of our Chairman. Yet, I feel that the experience of the working of the "Commissions of Inquiry Act, 1952" for the

past 18 years brings out clearly that guilty persons cannot be brought to book until and unless proper evidence can be adduced against them. Even the majority resolutions of the Lok Sabha and the State Legislative Assemblies may sometimes reflect only the indignation or the tempo of the feelings of the majority of the people without specific evidence to put down the guilty persons.

On the other hand, if the aggrieved person or persons are allowed the right to approach the Government to appoint a Commission of Inquiry with a sworn affidavit as to the ability to prove the allegations and a money deposit to be forfeited in case the charges are not proved, together with stringent penal provisions for bringing in fictitious or frivolous or vexatious or malafide charges and if it is made obligatory on the part of the Government to constitute the Commission under these circumstances also, then and then only, will the object of this enactment be met in full. Whether it is "a matter of public importance" can be made a justiciable matter in case there is a difference of opinion between the Government concerned and the applicant/applicants. As clause 2 of the Amending Bill brings section 3 of the Act under the purview of this Committee, the Committee is competent to bring in such an amendment to Section 3 of the "Commissions of Inquiry Act, 1952".

The objection of some Members of the Committee that this amendment would equate one individual with the majority of the Legislature is not valid in so far as it is the "aggrieved individual" alone who can set this law in motion. The object of this enactment is to find out the real facts regarding matters of public importance and the initiative granted to persons who have the requisite evidence in their possession, would expedite the process of inquiry.

The fear that such a right conferred on private individuals is likely to be misused can be eliminated by laying down stringent penal provisions against such persons, who misuse the privilege. Further, the experience that only one inquiry has till now been launched in Kerala, where the private individual is allowed to apply to the Chief Secretary with a deposit of only Rs. 500 and where the penal provisions against the malafide applicants are not properly laid down, proves the fact that no member of the public would be prepared to run the gamut of satisfying all the legal requirements, where the onus of proof is on the accusor and not on the accused.

Therefore, Section 3 of the Act can be amended by an amendment to clause L of the Bill as follows:—

(1) Cl. 2. In Section 3 of the principal Act, after the words— "Assembly of the State".

Insert

"Or if any aggrieved person applies to the Government with a sworn affidavit as to his ability to adduce proper evidence together with a deposit of Rs. 500."

(2) Cl. 2 of the Bill may be renumbered as Clause 2A.

(3) A new clause 2B may be incorporated providing Stringent penal provisions for bringing in frivolous, vexatious or Mala-fide allegations.

NEW DELHI;
The 9th November, 1979.

N. SREEKANTAN NAIR.

Bill No. 97-B of 1969

THE COMMISSIONS OF INQUIRY (AMENDMENT) BILL, 1969

(AS REPORTED BY THE JOINT COMMITTEE)

[*Words underlined or side-lined indicate the amendments suggested by the Committee, asterisks indicate omissions.*]

A

BILL

to amend the Commissions of Inquiry Act, 1952.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Commissions of Inquiry (Amendment) Act, 1970. Short title.

60 of 1952. 2. In section 3 of the Commissions of Inquiry Act, 1952 (hereinafter referred to as the principal Act),— * * * Amendment of section 3.

(*i*) in sub-section (*1*), for the portion beginning with the words "appoint a Commission of Inquiry" and ending with the words "shall make the inquiry and perform the functions accordingly:", the following shall be substituted, namely:—

"appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and submitting a report thereof to the appropriate Government and performing such functions and within such time as may be speci-

fied in the notification, and the Commission so appointed shall make and complete the inquiry, submit a report thereof and perform the functions accordingly:";

(*ii*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*3*) The appropriate Government may, at any stage of an inquiry by the Commission, * fill any vacancy which may have arisen in the office of a member of the Commission (whether consisting of one or more than one member).

* * * * * *

(*4*) The appropriate Government shall cause to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State, the report of the Commission submitted to it under sub-section (*1*) together with a memorandum of the action taken thereon, within a period of six months of the submission of the report.".

Amendment of section 4.

3. In section 4 of the principal Act, in clause (*a*), for the words "summoning and enforcing the attendance of any person", the words "summoning and enforcing the attendance of any person from any part of India" shall be substituted.

Amendment of section 5.

4. In section 5 of the principal Act, in sub-section (*2*), the words and figures "and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code" shall be inserted at the end. 45 of 1860.

Insertion of new section 5A.

5. After section 5 of the principal Act, the following section shall be inserted, namely:—

Power of Commission to utilise the services of certain officers and investigation agencies for conducting investigation pertaining to inquiry.

"5A. (*1*) **The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services,—**

(*a*) in the case of a Commission appointed by the Central Government, of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be; or

(*b*) in the case of a Commission appointed by the State Government, of any officer, or investigation agency of the State Government or Central Government with the concurrence of the State Government or the Central Government, as the case may be.

(*2*) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (*1*) may, subject to the direction and control of the Commission,—

(*a*) summon and enforce the attendance of any person and examine him;

(*b*) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.

(3) The provisions of section 6 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency, whose services are utilised under sub-section (1), shall investigate into any matter pertaining to the inquiry and submit a report thereon (hereafter in this section referred to as the investigation report) to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusions, if any, arrived at in the investigation report submitted to it under sub-section (4), and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it deems fit."

Insertion of new section 6A.

6. After section 6 of the principal Act, the following section shall be inserted, namely:—

Persons not obliged to disclose secret process of manufacture of goods in certain cases.

"6A. Except in cases where a Commission is expressly required to inquire into the process of manufacture of any goods, nothing in this Act shall be deemed to compel any person giving evidence before the Commission to disclose any secret process of manufacture thereof.".

Amendment of section 8.

7. In section 8 of the principal Act, the words "and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members" shall be omitted.

Insertion of new sections 8A, 8B and 8C

8. After section 8 of the principal Act, the following sections shall be inserted, namely:—

Inquiry not to be interrupted by reason of vacancy or change in the constitution of the Commission.

"8A. (1) Where the Commission consists of two or more members, it may act notwithstanding the absence of the Chairman or any other member or any vacancy among its members.

* * * * * *

(2) Where during the course of an inquiry before a Commission a change has taken place in the constitution of the Commission by reason of any vacancy having been filled, * * * or by any other reason, it shall not be necessary for the Commission to commence the inquiry afresh and the inquiry may be continued from the stage at which the change took place.

Persons likely to be prejudi-

8B. If, at any stage of the inquiry, the Commission,—

(a) considers it necessary to inquire into the conduct of any person; or

cially affected to be heard.

(*b*) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

Right of cross-examination and representation by legal practitioner.

8C. The appropriate Government, every person referred to in section 8B and, with the permission of the Commission, any other person whose evidence is recorded by the Commission,—

(*a*) may cross-examine a witness other than a witness produced by it or him;

(*b*) may address the Commission; and

(*c*) may be represented before the Commission by a legal practitioner or, with the permission of the Commission, by any other person.".

Insertion of new section 10A.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

Penalty for acts calculated to bring the Commission or any member thereof into disrepute.

"10A. (*1*) If any person, by words either spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Commission or any member thereof into disrepute, he shall be punishable with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(2) The provisions of section 198B of the Code of Criminal Procedure, 1898 shall apply in relation to an offence under sub-section (*1*) as they apply in relation to an offence referred to in sub-section (*1*) of the said section 198B, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction,— 5 of 1898.

(*a*) in the case of a Commission, or member of a Commission, appointed by the Central Government, of the Central Government; or

(*b*) in the case of a Commission, or member of a Commission, appointed by the State Government, of the State Government.".

Amendment of section 12.

10. In section 12 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making

any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Extension of Act 60 of 1952 to the State of Jammu and Kashmir, application of that Act to Kohima and Mokokchung districts in the State of Nagaland and consequential amendments to that Act.

11. The principal Act, as amended by this Act, shall, as from the commencement of this Act,—

(*a*) extend to and come into force in the State of Jammu and Kashmir in so far as it relates to inquiries pertaining to matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State;

(*b*) apply to, and come into force in, the Kohima and Mokokchung districts in the State of Nagaland;

and accordingly in the principal Act,—

(*i*) in sub-section (*2*) of section 1, the words "except the State of Jammu and Kashmir" shall be omitted;

(*ii*) in section 2, to clause (*a*), the following proviso shall be added, namely:—

"Provided that in relation to the State of Jammu and Kashmir, this clause shall have effect subject to the modification that—

(*a*) in sub-clause (*i*) thereof, for the words and figures "List I or List II or List III in the Seventh Schedule to the Constitution", the words and figures "List I or List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir" shall be substituted;

(*b*) in sub-clause (*ii*) thereof, for the words and figures "List II or List III in the Seventh Schedule to the Constitution", the words and figures "List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir" shall be substituted.";

(*iii*) after section 2; the following section shall be inserted, namely:—

Construction of references to laws not in force in the State of Jammu and Kashmir.

"2A. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.".

S. L. SHAKDHER,

Secretary.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1971